

Kazakhstan (Tier 2)

The Government of Kazakhstan does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. The government demonstrated overall increasing efforts compared to the previous reporting period, considering the impact of the COVID-19 pandemic on its anti-trafficking capacity; therefore Kazakhstan was upgraded to Tier 2. These efforts included investigating more trafficking cases and identifying more victims of sex trafficking and forced labor than the previous year; increasing the number of trafficking convictions for the first time in five years; and, achieving the first convictions for forced labor crimes in three years. In conjunction with an international organization, the government also established pilot taskforces to improve proactive victim identification; conducted training activities for an increased number of officials; expanded the length of NGO service provider contracts with local governments; and granted deportation relief for migrant workers stranded in Kazakhstan during the pandemic. However, the government did not meet the minimum standards in several key areas. Civil society and government interlocutors reported that legislative insufficiencies continued to hinder effective anti-trafficking enforcement and victim identification. Foreign victims continued to face obstacles in accessing protection services absent initiation of criminal cases against their traffickers. Authorities at times harassed and imposed spurious penalties on members of civil society, including anti-trafficking organizations and activists attempting to raise awareness of forced labor and other abuses against ethnic Kazakhs in Xinjiang, China.

PRIORITIZED RECOMMENDATIONS:

Amend trafficking laws to align the definition of trafficking with international standards and train law enforcement officers and labor inspectors on their application, particularly in the detection of cases involving psychological coercion and other less overt trafficking indicators. • Approve and implement policies allowing formal recognition of foreign nationals as trafficking victims and their referral to robust protection services irrespective of whether criminal cases have been initiated against their traffickers. • Vigorously investigate, prosecute, and convict suspected trafficking cases, including allegedly complicit government officials, police officers, and labor traffickers. • Significantly increase efforts to identify trafficking victims among vulnerable populations and refer these victims

for assistance, with an emphasis on foreign forced labor victims, LGBTQI+ individuals, and Kazakhstani women and children repatriated from armed conflict zones in Iraq and Syria. • Ensure victims are aware of their right to seek compensation, and train attorneys and law enforcement officials on how to assist them in the process. • Provide systemic, specialized training to all labor inspectors to identify victims of forced labor and report potential trafficking cases to the police. • Establish and implement a centralized anti-trafficking data collection system. • Enhance oversight and regulation of labor recruitment agencies. • Continue to provide legal alternatives to deportation, especially when foreign trafficking victims may face hardship, abuse, or re-trafficking in their countries of origin. • Continue to display anti-trafficking awareness materials at border-crossings and checkpoints.

PROSECUTION

The government increased anti-trafficking law enforcement efforts. Articles 128, 134, 135, 308, 125(3b), and 126(3b) of the penal code criminalized sex trafficking and labor trafficking. However, inconsistent with the definition of trafficking under international law, the law did not include force, fraud, or coercion as an essential element of the crime, but rather considered them an aggravating circumstance. NGO observers and government officials alike noted this was particularly illustrative in Article 128 (Trafficking in Persons) and Article 135 (Trafficking in Minors), which criminalized the purchase or sale of persons under certain circumstances; its lack of specificity reportedly prevented authorities from properly investigating or prosecuting some cases involving psychological coercion or other more complex trafficking indicators. The law, as amended in 2019, prescribed penalties of four to seven years' imprisonment for adult trafficking and five to nine years' imprisonment for child trafficking, an increase from three to five years' imprisonment and five to seven years' imprisonment for the respective crimes; the penalties could be increased to up to 18 years' imprisonment under aggravated circumstances. These penalties were sufficiently stringent and, with respect to sex trafficking, commensurate with those prescribed for other serious crimes, such as rape. For those accused of trafficking, the 2019 amendments also rescinded provisions of the criminal code that allowed defendants to pay monetary compensation to victims in exchange for having the criminal cases withdrawn. Kazakhstani officials reportedly began consulting with international organizations

and foreign governments on the creation of standalone trafficking legislation; this process was ongoing at the end of the reporting period.

Police newly investigated 72 trafficking cases in 2020—an increase compared with 45 in 2019—and continued 23 investigations initiated in the previous reporting period. Police also initiated an investigation into a transnational trafficking organization under criminal code articles related to organized crime; the Ministry of Internal Affairs (MVD) and finance ministry authorities used digital forensics to identify eight individuals suspected of arranging the trafficking of Kazakhstani women into Bahrain. The case was ongoing at the end of the reporting period. The government prosecuted 45 human trafficking cases in 2020, compared with 67 cases in 2019, and it convicted 11 sex traffickers, compared with eight in 2019, 17 in 2018, 29 in 2017, and 45 in 2016—the first annual increase in five years. Sentencing was more stringent than the previous reporting period; of the 11 traffickers convicted in 2020, nine received sentences ranging from 6.6 to 17 years’ imprisonment, with the remainder sentenced to four years and three years, respectively (compared with six sentences ranging from five to 10 years’ imprisonment, one conditional sentence of three years’ served outside of prison, and one partially suspended sentence resulting in 6.8 years’ imprisonment in 2019). Three of the traffickers were sentenced for labor trafficking crimes, marking the first time in three years the government achieved forced labor convictions. As in previous years, many of the trafficking cases were the result of three multi-day special anti-trafficking police operations, called “Stop Trafficking,” in which the police located and closed brothels, arrested pimps, and registered adults engaged in commercial sex. The government also reported pursuing unspecified accountability for nearly 500 individuals for subjecting their employees to forced labor, but authorities did not provide information on whether any of these cases were related to the aforementioned convictions, or whether relevant charges and penalties were criminal or administrative in nature. NGOs continued to report investigators closed or decided not to open some criminal cases due to a perceived lack of evidence, despite the available testimony of trafficking victims and that they continued to focus on investigating cases involving sex trafficking to the exclusion of those involving forced labor. Following a presidential directive to improve anti-trafficking investigations and prosecutions, the government initiated an internal research process to assess the quality of 250 trafficking investigations closed or suspended over the previous five-year period; the study reportedly found a significant “latency of cases” generated by victims’

fear of reprisals from their traffickers throughout the criminal justice process. As a result of this research, the Prosecutors General Office (PGO) identified and formally reopened 35 cases that had been improperly closed; these remained under investigation at year's end. In previous years, NGOs reported traffickers bribed low-ranking police officials to avoid charges and alleged that some police officers facilitated forced labor or sex trafficking crimes. Unlike the previous year, there were no convictions of government officials for trafficking-related offenses in 2020.

The government continued to train police, prosecutors, and judges on the identification, investigation, and prosecution of trafficking crimes, and it funded police and other officials' participation in international anti-trafficking conferences; these activities were mostly conducted online due to the pandemic. In 2020, the MVD's Trafficking in Persons Training Center trained 168 police officers (167 in 2019) on investigative techniques. The PGO, in partnership with the Supreme Court, MVD, and MLSP, trained 90 police officers, 90 prosecutors, 36 judges, and 36 labor inspectors from around the country on the identification and prosecution of labor trafficking cases (compared with 44 prosecutors trained in 2019). The PGO also trained attorneys on provision of legal assistance to victims and created a video training module on human trafficking for new law enforcement and transferring police officers. Unlike in previous years, these trainings were primarily government funded. During the reporting period, the government also formally amended the position descriptions of labor inspectors to include responsibility for the identification of victims and subsequent notification to law enforcement, addressing a key recommendation from international observers. However, authorities did not report if labor inspectors' new mandate resulted in the increased referral of cases to law enforcement. Kazakhstani law enforcement continued to cooperate with foreign governments on the investigation of trafficking crimes. In 2020, police arrested five Uzbekistani individuals and extradited a sixth at the request of their government in response to sex trafficking and forced labor allegations; they also submitted formal requests for assistance with the investigation of trafficking cases involving Kazakhstani victims in Russia and Bahrain, respectively (compared with ten international cases and five extraditions in 2019).

PROTECTION

The government increased protection efforts. Law enforcement units dedicated to migration and trafficking issues operated under standard guidelines for the identification of victims among vulnerable populations, including undocumented migrant communities and individuals in commercial sex. Separate referral procedures were outlined under the 2015 Special Social Services Standards, which instructed law enforcement agencies on how to coordinate with NGOs to connect victims with protection services. Police also maintained a formal referral mechanism for victims initially arrested or detained during police operations. Although some international organizations encountered fewer foreign victims as a result of decreased movement across international borders during the pandemic, Kazakhstani authorities increased victim identification among both domestic and foreign nationals during the reporting period. The government identified 88 trafficking victims, compared with 40 in 2019. Of these, 71 were Kazakhstani citizens—all women and girls, including 51 exploited in sex trafficking in Bahrain and 16 exploited in sex trafficking domestically. The remaining four, whose genders and ages were unknown, were exploited in forced labor within Kazakhstan, along with 17 Uzbekistani nationals (compared with two Uzbekistani victims and one Russian victim identified in 2019). As in the previous year, the government identified most sex trafficking victims during three anti-trafficking special police operations intended to locate and close brothels, arrest pimps, and register women engaged in commercial sex. Comprehensive statistics on NGO victim identification were unavailable in 2020; however, reports indicate NGOs continued to provide shelter, legal assistance, and other services to hundreds of victims—many more than formally identified by the authorities (compared with 76 victims—21 Kazakhstanis and 55 foreign nationals—assisted by NGOs in 2019). Law enforcement referred six victims to protection services provided by an international organization (12 in 2019), foreign embassies referred one, and NGOs referred four; as in previous years, most victims self-reported, including through hotlines. The government funded an NGO-operated trafficking hotline that received 1,341 phone calls in 2020, 21 of which were referred to anti-trafficking police units (compared with 1,834 calls culminating in 12 referrals in 2019). Unlike the previous year, two of these calls involving a total of seven victims resulted in confirmed trafficking investigations (none in 2020); however, both cases were ultimately closed per the victims' request. In cases where law enforcement identified foreign victims, victims often refused to cooperate. According to experts, foreign victims frequently reported their exploitation to local police upon return to their home country, where they felt safer.

In conjunction with an international organization, the government established three pilot interagency taskforces comprising police officers, prosecutors, labor inspectors, and civil society representatives to share best practices on victim identification with local authorities and collect data on potential cases throughout the country. In a decision lauded by civil society, the government then included the activities of these mobile taskforces within its new national action plan (NAP). NGOs continued to report effective victim referral and police cooperation with regional anti-trafficking units, which were composed of one or two police officers. Law enforcement units mandated to address migration or trafficking issues had a formal system to identify trafficking victims among at-risk persons, such as undocumented migrants or individuals in commercial sex; although the government improved efforts to identify foreign victims and expanded the mandate of the labor inspectorate to require monitoring for trafficking indicators, officials' efforts to identify foreign victims and victims of labor trafficking remained inadequate.

During the reporting period, authorities issued a policy extending the length of NGO service providers' local government contracts from one to three years to reduce administrative burdens on organizations providing essential services to trafficking victims. However, government pressure on civil society at times impeded the work of anti-trafficking NGOs; authorities imposed politically-motivated administrative fines and closure orders on several organizations providing shelter services in 2020. Following widespread expression of concern among international donors, the government rescinded all relevant charges. The authorities continued to allocate funding for NGO-run shelter operations. Nine anti-trafficking NGOs across nine provinces applied for and received government grants totaling 69.4 million Kazakhstani tenge (KZT) (\$164,740) to support shelter activities in 2020 (a slight decrease compared with eight total shelters receiving 76.2 million KZT, or \$180,880, in 2019). However, the government significantly increased its 2021 funding allocation to 148.9 million KZT (\$353,460) with the intention of expanding shelter support to eight additional provinces. Existing NGO-operated trafficking shelters offered legal, psychological, and medical assistance and were accessible to all Kazakhstani trafficking victims. The government encouraged victims—including foreigners—to participate in investigations and prosecutions by providing witness protection during court proceedings, access to pre-trial shelter services, and basic provisions such as food, clothing, and medical and legal assistance. These and

other protection services were not conditional upon Kazakhstani victims' cooperation with law enforcement, but foreign victims could not access these services unless a criminal case had been initiated against their traffickers. To address this insufficiency, provisions of Kazakhstan's new NAP committed to Social Code amendments that would extend protection services to foreign victims irrespective of the initiation of criminal cases; these amendments remained under consideration at the end of the reporting period, but Ministry of Foreign Affairs officials reportedly utilized other channels to secure permission to provide protection services to an unspecified number of foreign victims in the interim. Some NGO observers noted existing shelter space would not be sufficient to accommodate an increase in the referral of foreign victims to protection services that could result from this change. During the reporting period, the government promulgated a law on compensation originally adopted in 2017 that increased the amount to which trafficking victims were entitled; however, no such cases were subsequently filed. Many victims and their attorneys continued to be unaware of the right to seek compensation, and high legal fees continued to dissuade some victims from doing so. The government could provide pro bono attorneys to trafficking victims, although statistics on provision of legal services were unavailable during the reporting period, and NGOs reported these attorneys were often inexperienced.

Unlike in previous years, the government did not report data on provision of legal protection to foreign trafficking victims in 2020 (compared with one victim in 2019) nor on the suspension of deportation screenings or temporary residency granted for trafficking victims during criminal investigations. However, in 2020 the government eliminated the imposition of penalties on foreign nationals leaving the country after their visas, registration cards, or work or residence permits expired, and it provided expansive deportation relief to thousands of migrant workers stranded in Kazakhstan due to the pandemic, addressing a common risk factor for immigrations status-based coercion. NGOs reported foreign victims sometimes experienced problems in accessing local medical care due to a lack of health insurance, residence permits, or financial strain generated by loss of employment during the pandemic. With the exception of four notable asylum cases involving ethnic Kazakhs fleeing persecution in Xinjiang, the government generally did not offer legal alternatives to foreign victims' removal to countries where they would face retribution or hardship and, according to local law, victims were required to be deported after expiration of their temporary residency rights.

Although Kazakhstan's new NAP included provisions outlining a reflection period in lieu of statutory deportation, this plan had not come into effect by the end of the reporting period. NGOs continued to report a shortage of lawyers authorized to participate in administrative deportation cases.

The government at times penalized foreign nationals fleeing exploitation abroad, including from China, for illegally entering Kazakhstan; these immigration violations were not automatically expunged in cases where such individuals were granted asylum, and they precluded future eligibility for Kazakhstani citizenship. This reportedly had the potential to disincentivize some victims from accessing asylum and protection services. Civil society contacts continued to report some foreign trafficking victims, including ethnic Kazakh survivors of Xinjiang detention camps and Turkmen victims in southern Kazakhstan, were hesitant to report their abuses to local authorities due to distrust of law enforcement, perceived corruption, and fear of punitive deportation or other punishment. Authorities at times committed politically-motivated harassment against activists attempting to raise awareness and advocate for the human rights of ethnic Kazakhs subjected to forced labor in Xinjiang. However, Kazakhstani authorities refused to comply with China's extradition requests of ethnic Kazakhs fleeing persecution and instead granted asylum to at least four such individuals during the reporting period. Although there were no other reports of authorities punishing victims for any unlawful acts traffickers compelled them to commit in 2020, enduring insufficiencies in victim identification procedures placed some unidentified foreign victims—especially those exploited in forced labor—at risk of penalization.

In continuation of large-scale repatriation efforts conducted in 2019, in February 2021, the government repatriated and provided rehabilitation services to at least seven Kazakhstani children, including potential trafficking victims, who had been living in Syria with male relatives participating in armed conflict. The group also included four men and one woman, but some or all of these adults may have been jailed on terrorism charges upon return along with dozens repatriated in 2019. Specific information on rehabilitative services for these individuals was unavailable in 2020. However, in previous years, adults repatriated from Iraq and Syria were housed in government-run rehabilitation centers, where they also benefitted from medical and psychosocial care, and children were generally housed with family members while receiving state-funded rehabilitation and reintegration services. Kazakhstani authorities reportedly also worked to repatriate Kazakhstani

nationals subjected to arbitrary detention in facilities known to perpetrate forced labor in Xinjiang, China, but additional information on these cases was unavailable.

PREVENTION

The government increased overall prevention efforts. The Interagency Trafficking in Persons Working Group, led by the MVD, held two virtual sessions in 2020 to assess the implementation of the 2017-2020 anti-trafficking NAP and to finalize a comprehensive draft 2021-2023 NAP, which the government approved in February 2021. Apart from some incidents of politically-motivated interference in the operation of some anti-trafficking NGOs, civil society observers noted improved political will, more proactive efforts, and enhanced coordination with NGOs on the part of the interagency working group and its subsidiary regional and local commissions. The government continued to fund anti-trafficking information and education campaigns targeting potential trafficking victims, including children. The Ministry of Information and Communication funded radio and television programs, as well as the publication of newspaper articles and web-publications, designed to raise public awareness and prevent the crime. Kazakhstan's border authorities instituted the 24-hour display of a video created jointly by the MVD and a foreign donor to educate travelers on forced labor vulnerabilities, reporting channels, and ways victims can seek assistance at key transit hubs and border crossings. The government continued to advertise an NGO-operated anti-trafficking hotline and, in conjunction with an international donor, trained its operators on victim identification and service provision. It also created and distributed thousands of pandemic facemasks printed with the hotline number to increase awareness of its availability. Authorities at times harassed, surveilled, censored, criminally prosecuted, and curtailed the freedom of expression and assembly of activists attempting to raise awareness on widespread abuses, including forced labor, perpetrated against ethnic Kazakhs in detention camps in Xinjiang.

In 2020, labor inspectors under the Ministry of Health and Social Protection conducted 3,982 inspections to identify labor violations; although this was a marked decrease from 6,681 inspections in 2019—likely as a result of pandemic-related business closures—inspectors still identified more than 6,000 violations (unreported in 2019). These violations predominantly dealt with wage irregularities, contract violations, and labor without proper employment

agreements—all of which were common labor trafficking indicators. Inspectors issued 2,290 administrative citations and imposed 1,086 fines totaling 174.3 million KZT (\$413,750) (compared with 2,651 recruiters and employers receiving administrative unspecified fines in 2019). Despite the prevalence of forced labor indicators detected, and although the labor inspectorate's mandate was changed in 2020 to include trafficking identification and referral to law enforcement, the government did not report if any of these inspections led to the opening of criminal cases. The number of labor inspectors employed under the MLSP increased from 260 to 274 during the reporting period. This increase fell short of a commitment to double inspectorate staff in 2020, due in part to pandemic-related challenges; the inspectorate therefore remained inadequate to effectively enforce labor regulations across the country. In previous years, migrant workers reported using unofficial third-party intermediaries to find employment and meet Kazakhstani migration registration requirements; these intermediaries often circumvented the law could facilitate the trafficking of foreign victims with relative impunity due to their unofficial status. Authorities did not provide information on enhanced regulation of or enforcement within these networks during the reporting period. In 2020, Kazakhstan entered into a new agreement with Uzbekistan to strengthen regulation and oversight of labor migration flows and enhance migrant worker protections. The government also improved online informational resources for migrants. The government did not make efforts to reduce the demand for commercial sex acts. In 2020, the government reported providing anti-trafficking training to 120 peacekeepers prior to their international deployment, thereby fulfilling a 2020 TIP report recommendation.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit domestic and foreign victims in Kazakhstan, and traffickers exploit victims from Kazakhstan abroad. Domestically, the relative economic prosperity in the government capital Nur-Sultan, the financial capital Almaty, and the western oil cities Aktau and Atyrau attract large numbers of rural Kazakhstanis, some of whom traffickers lure through fraudulent offers of employment and then exploit in sex trafficking and forced labor in agriculture, construction, and other sectors. Traffickers force some children to beg and may also coerce adults and children into criminal behavior. Some members of Kazakhstan's LGBTIQI+ communities are at risk of police abuse, extortion, and coercion into informant roles; LGBTIQI+ individuals,

particularly transgender persons required to undergo invasive and bureaucratic processes for gender-affirming care, are vulnerable to trafficking amid widespread social stigma and discrimination that often jeopardizes their employment status or prospects in the formal sector and complicates their access to justice. Domestic violence may also drive many Kazakhstani trafficking victims to seek and accept unsafe employment opportunities on which traffickers prey; this vulnerability has reportedly increased as a result of state-ordered residential quarantines amid the pandemic.

Women and girls from neighboring East Asian, Central Asian, and Eastern European countries, as well as from rural areas in Kazakhstan, are exploited in sex trafficking in Kazakhstan; in most cases, traffickers target young girls and women, luring them with promises of employment as waitresses, models, or nannies in large cities. Traffickers increasingly exploit Central Asian citizens, in particular Uzbekistani men and women, in forced labor in domestic service, construction, bazaars, and agriculture in Kazakhstan. Many migrant workers among the one million Uzbekistanis subjected to Russia's 2014 re-entry ban have subsequently sought temporary work and residence in Kazakhstan, where traffickers prey on them. Thousands of undocumented Uzbekistani migrants transit into Kazakhstan each day via informal border crossings for seasonal labor in construction, agriculture, retail, hospitality, and commercial sex; these individuals are particularly vulnerable to trafficking by virtue of their irregular immigration status, as are their accompanying children, who often do not attend school despite their eligibility to do so. These and other migrant populations have suffered additional vulnerabilities to trafficking as a result of pandemic-related business closures and financial constraints preventing them from accessing affordable medical care. NGOs have reported an increase in traffickers' use of debt-based coercion in the exploitation of migrants in recent years. Traffickers capitalize on tough law enforcement policies to coerce migrants to remain in exploitative situations and leverage these policies to threaten victims with punishment and deportation if they notify authorities, fostering distrust in law enforcement.

Traffickers coerce or force Kazakhstani men and women into labor mostly in Russia, but also in Bahrain, Brazil, the Republic of Korea, Turkey, and the United Arab Emirates. Sex traffickers exploit Kazakhstani women and girls in the Middle East, Europe, East Asia, and the United States. Chinese authorities arbitrarily detain some Kazakhstani citizens visiting family in Xinjiang, China and subject

them to forced labor; their children, subsequently unaccompanied, are also at elevated risk of trafficking at home in Kazakhstan. Organized crime groups and small trafficking rings with recruiters in Kazakhstan operate in conjunction with brothel operators in Kazakhstan and abroad. Some Kazakhstani men travel to Syria, Iraq, and Afghanistan to fight alongside or seek employment within armed groups and are subsequently subjected to forced labor in cooking, cleaning, and portering. Kazakhstani women and children traveling with these men are also vulnerable to sex trafficking and forced labor on arrival; many are reportedly placed alongside other Central Asian family members in makeshift camp communities, where their travel and identity documentation is confiscated and their freedom of movement is restricted. Many of these women report having lost their husbands to armed conflict, after which their economic hardships and confinement in the camps make them vulnerable to coercive local marriages that may feature corollary sex trafficking or forced labor indicators.